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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,067	02/26/2004	Jere F. Irwin	IR3-052	9563
21567	7590	11/15/2005	EXAMINER	
WELLS ST. JOHN P.S. 601 W. FIRST AVENUE, SUITE 1300 SPOKANE, WA 99201			CHOI, STEPHEN	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/789,067

Applicant(s)

IRWIN, JERE F.

Examiner

Stephen Choi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 September 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 24-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-28 and 30-32 is/are rejected.
- 7) ☒ Claim(s) 29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/26/04 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/26/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of Group IV in the reply filed on 08 September 2005 is acknowledged.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 24-26 and 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arends et al. (US 4,173,161).

Arends discloses the invention substantially as claimed including a treadle including a web guide plate and a pair of guide strips (e.g., at 60) and an article detector (e.g., 106). Although Arends teaches that a spacing between the plate and the strips is slightly greater than the thickness of the web, Arends fails to disclose one of the guide strips being spaced from the web guide plate at most 3.5 times or about 1 to about 3.5 times the thickness of the web and another of the guide strips being spaced from the plate at least 3.5 times or about 3.5 to about 10 times the thickness of the web. However, it would have been obvious matter of design choice to a person of ordinary skill in the art to provide the spacing between the plate and the strips of Arends to be about 3.5 times the thickness of the web because applicant has not disclosed the specific spacing provides an advantage, is used for particular purpose, or solves a

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stated problem. One of ordinary skill in the art would have expected the spacing of Arends and applicant's invention, to perform equally well with either arrangement since both arrangements would perform the same function. It has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Regarding claim 31, at 74.

Regarding claim 32, the guide strips are adjustable along 68 and opposite strips.

4. Claims 27-28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arends in view of Keim (US 4,430,914).

Regarding claim 27, the modified device of Arends discloses the invention substantially as claimed except for an optical emitter and an optical detector. Keim discloses an optical article detector (e.g., 90). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the article detector as taught by Keim on the modified device of Arends in order to provide accurate position of the workpiece. Regarding claim 28, first and second guide members (70 of the modified device of Arends). Regarding claim 30, the modified device of Arends fails to disclose at least one quick release adjustment collar.

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a quick release adjustment collar on the modified device of Arends since the examiner takes Official Notice on the use of such a collar as old and well known in the art for the purpose of quickly release and lock an element on a shaft-like part. Lee and Stillwagon show some examples of such a collar assembly.

***Allowable Subject Matter***

5. Claim 29 is objected to as being dependent upon a rejected base claim, but appears to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: Although the use of an article detector having an optical emitter and an optical detector mounted adjacent to each other to detect an article is old and well known, none of the cited prior art, singly or in combination, teaches all of the limitations of claim 24 in combination with the limitations of claims 27-29.

#### ***Conclusion***


7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lee and Stillwagon.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Choi whose telephone number is 571-272-4504. The examiner can normally be reached on Monday-Thursday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sc  
9 November 2005

  
**STEPHEN CHOI**  
**PRIMARY EXAMINER**